

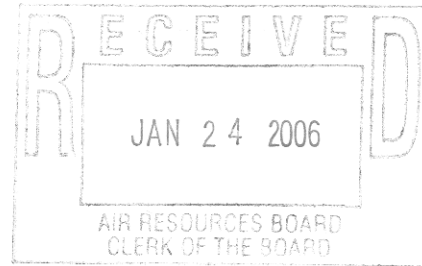
XC: Board Members 06-1-5
Chairman CEW 1/26/05
TJ TAC
KT Legal (AM/MT) MSOD



Driving Trucking's Success

January 24, 2006

Clerk of the Board
Air Resources Board
1001 I Street 23rd Floor
Sacramento CA 95814



Transmitted via email: hdvip2006@listserv.arb.ca.gov

RE: Proposed Rulemaking to Consider Amendments to the Heavy-Duty Vehicle Smoke Inspection Program (Implementation of Assembly Bill 1009, Pavley 2004, Chapter 873)

The American Trucking Associations (ATA)¹ request amendment to §2185(3)(A) & (B) of the Proposed Regulatory Order to ensure that operators of commercial heavy-duty engines which met federal emission standards at the time they were manufactured are given an opportunity to demonstrate compliance with the standards in the event the engine label is missing or obscured (referred to as "tampered" in the Staff Report). As proposed, the regulation provides this opportunity only during the first year of the program. However, some vehicles which met federal emission standards may have missing or obscured labels, unbeknownst to the vehicle's owner or operator, beyond the regulations first year. Since these vehicles meet the intent of AB 1009 (i.e., compliance with federal emission standards) and do not emit any more emissions than a compliant vehicle with a label, they should not be subject to a penalty without being given the opportunity to demonstrate proof of compliance. The following amendments will give operators this opportunity.

§2185 (3) Penalties for a Tampered ECL under section 2183.

- (A) An owner of any heavy-duty vehicle shall receive a Citation each time ARB finds that the vehicle has a tampered ECL. ~~For the first year~~ Following the effective date of the amended regulation, [date to be inserted], if the owner demonstrates to ARB that a new label has been affixed to the vehicle's engine within 45-days of receipt of the Citation pursuant to section 2186(d) below, no penalty shall be assessed. An owner of a heavy-duty vehicle who has been issued a Citation for a tampered ECL label and who has failed to have a replacement label affixed to the engine within 45-days of service of the Citation as set forth in section 2186(a)(3) below shall be subject to a \$300 penalty.
- ~~(B) After the first year from the effective date of the amended regulation, [date to be inserted], the owner shall receive a citation which may not be waived, assessing the owner a \$300 penalty.~~

¹ The American Trucking Associations is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Our membership includes more than 3,700 trucking companies and industry suppliers of equipment and services. Directly and through our affiliated organizations, ATA encompasses over 34,000 companies and every type and class of motor carrier operation.

1



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We have discussed our proposal to no avail with CARB staff, directly, and through our affiliated association, the California Trucking Association (CTA). Unless these proposed amendments are made, after the program's first year, CARB will be issuing \$300 citations for potentially nothing more than having a missing or obscured engine label rather than determining whether an air quality impact justifies a citation.

We hope the Board will support our proposed amendments as a means of providing vehicle owners the opportunity to demonstrate compliance with this State law. Unfortunately, an ATA representative will not be able to attend the public hearing scheduled for Thursday, January 26, 2006. However, a CTA representative should be available for additional clarification.

Please contact me prior to the meeting if you have further questions.

Sincerely,

Michael Tunnell
Director, Environmental Affairs
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